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# *The* **NORTH CAROLINA REGISTER**

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### PROPOSED RULES

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Division of Archives & History

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and Substance Abuse

Youth Services

Boiler and Pressure Vessel

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Environmental Management

Soil and Water

Notary Public

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# INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

## NORTH CAROLINA REGISTER

The *North Carolina Register* is published monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately one hundred pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of ninety-five dollars (\$95.00) for 12 issues.

Requests for subscription to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 11666, Raleigh, N. C. 27604, Attn: Subscriptions.

## ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include a reference to the Statutory Authority for the action; the time and place of the public hearing and a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Following publication of the proposal in the *North Carolina Register*, at least 60 days must elapse before the agency may take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule, cannot become effective earlier than the first day of the second calendar month after the adoption is filed.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

## TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in effect for the period specified in the rule or 120 days, whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

## NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size, single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) In looseleaf pages at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$.15) per each additional page.
- (2) On microfiche. The microfiche edition is revised semi-annually (March and October) and can be purchased for forty dollars (\$40.00) per edition. Due to the volume of the Code, the complete copy can only be purchased on microfiche. The NCAC on microfiche is updated monthly by publication of a "List of Rules Affected" which sets out rules filed the previous month, the action taken, and the effective date of the change. This list is published in the *North Carolina Register*.

Requests for looseleaf pages of rules or the NCAC on microfiche should be directed to the Office of Administrative Hearings.

## NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

## CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue, page number and date. **I:1 NCR 101-201, April 1, 1986** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

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# NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER  
Publication Deadlines and Schedules  
(April 1986 - March 1987)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing	Earliest Date for Adoption by Agency	Earliest Effective Date
04/15/86	03/25/86	04/01/86	05/15/86	06/14/86	08/01/86
05/15/86	04/24/86	05/01/86	06/14/86	07/14/86	09/01/86
06/16/86	05/27/86	06/03/86	07/16/86	08/15/86	10/01/86
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02/16/87	01/26/87	02/02/87	03/18/87	04/17/87	06/01/87
03/16/87	02/23/87	03/02/87	04/15/87	05/15/87	07/01/87

## PROPOSED RULES

### TITLE 4 - COMMERCE

#### MILK COMMISSION

Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Milk Commission intends to amend regulation entitled 4 NCAC 7

.0507. The purpose of the proposed amendments is to make permanent the temporary amendments to 4 NCAC 7 .0507(a), (d) and (i) which establishes a new formula for determining the Class I price for milk sold by North Carolina processors in the state and to provide for the announcement of a lower price if it is determined that out of state processors are paying a lower price for milk which they ship into the state. This temporary amendment is identical to the temporary amendment adopted on December 17, 1985, to be effective January 3, 1986, which was repealed on May 3 in order to permit the adoption of another temporary amendment in order to comply with the technical changes in the law regarding the hearing notice period and comment period.

The proposed effective date of this action is September 1, 1986.

Statutory Authority: G.S. 106-266.8(7), (8).

The public hearing will be conducted at 10:00 a.m. on June 24, 1986, in Room 6168 of the Dobbs Building, located at 430 North Salisbury Street in Raleigh.

Comment Procedures: Data, opinions and arguments concerning these amendments must be submitted by July 14, 1986, to the North Carolina Milk Commission, 430 North Salisbury Street, Raleigh, N. C. 27611. Attn: Grady Cooper, Jr., Executive Secretary.

#### CHAPTER 7 - MILK COMMISSION

##### SECTION .0500 - MARKETING REGULATIONS

##### .0507 MINIMUM CLASS PRICES AND BUTTERFAT DIFFERENTIALS

(a) Class I price for North Carolina sales. The minimum price to be paid North Carolina producers and/or associations of producers for the product pounds classified as Class I effective

January 1, 1986, shall be fourteen dollars and sixty-five cents (~~\$14.65~~) per hundredweight for milk containing three and one half percent (~~3.5%~~) butterfat for all milk which is processed in North Carolina and sold or disposed of for consumption or use as processed fluid milk products in North Carolina.

The above established Class I price shall correspond to the composite index computed for the month of October 1985 and shall be adjusted quarterly in accordance with the following procedure with the first quarterly adjustment being computed for the April 1986 quarter.

(1) A composite index shall be computed for the computation month by dividing the sum of the indexes for (A) through (E) of this Section as computed under (a)(2) of this Rule by five. Each formula index shall be rounded to one decimal place and .05 shall be rounded upward. The composite index shall be rounded to two decimal places and .005 shall be rounded upward.

(A) The formula index of prices paid in North Carolina for 20% dairy feed, computed from data as published in "N.C. Farm Report", Federal-State Crop and Livestock Reporting Service, North Carolina Department of Agriculture/U.S. Department of Agriculture.

(B) The formula index of prices paid for production items, interest, taxes and wage rates, U. S. computed from data as published in "Agricultural Prices", Statistical Reporting Service, U. S. Department of Agriculture.

(C) The formula index of consumer prices, U. S., computed from data as published in "News", U. S. Department of Labor, Bureau of Labor Statistics.

(D) The formula index of producer prices (formerly wholesale price), U. S., computed from data as published in "News", U. S. Department of Labor, Bureau of Labor Statistics.

(E) The formula index of earnings, N. C. manufacturing plants weekly average, computed from data as published in the "North Carolina Labor Market Newsletter", Employment

Security Commission of North Carolina:

(2) The data used to compute the index for the quarterly computations for (A) through (D) of (a)(1) of this Rule shall be the index data for the third preceding month. The data for (E) of (a)(1) of this Rule shall be the average of the data for the third, fourth and fifth preceding months.

(3) The base period for each index shall be January-June 1974. The average for the base period of each index shall equal 100 for the purpose of computing the monthly index for each factor. Each base period index shall be rounded to one decimal place and .05 shall be rounded upward.

(4) Price adjustments, if any, shall be effective on the Monday nearest the first day of a quarter: January, April, July, October; that is if the first day of a quarter falls on Tuesday, Wednesday or Thursday, the price adjustments, if any, will be the Monday immediately prior to the first day of a quarter; and if the first day of a quarter falls on a Friday, Saturday or Sunday, the price adjustments, if any, will be the first Monday after the first day of a quarter.

(5) Price adjustments after taking into account all factors shall be in amounts of not less than fifteen cents (\$0.15) per hundredweight.

(6) The Glass I price determined for any quarter shall be announced on or about the first and before the fifth of the month preceding each quarter and the price so announced shall be the price in effect for the quarterly period as defined in (a)(4) of this Rule. Under this procedure a blend price shall be announced for the last month of a quarter or the first month of a quarter depending upon which Monday the price becomes effective. Such blend price shall be computed on a weighted basis according to the number of sales days excluding Sundays, at the respective prices in effect rounded to the nearest whole cent and (\$0.005) shall be rounded to the next highest cent.

(7) The indicated price movement shall be computed by the following procedure:

(A) Two values of the composite index are required to compute the indicated price movement; the most recent monthly value of the composite index and the value of the index three months prior to the most recent monthly value. The earlier value of the composite index shall be deducted from the most recently computed value of the composite index; and the difference between these two values shall be expressed as a percentage of the earlier index value. This percentage of change shall be computed to two decimal places; and .005% shall be rounded upward.

(B) The resulting percentage shall be multiplied by .80 to arrive at the percentage of change to be applied to the indicated Glass I price for the previous quarter.

(C) This computed percentage shall be applied to the indicated Glass I price for the previous quarter and the amount so determined added to the previous indicated price to determine the indicated price for the next quarter. The indicated price shall be expressed to the nearest whole cent and (\$0.005) shall be rounded to the next highest cent.

(D) The foregoing procedure is expressed by the following equation:

NOTE:

$$IPM = \frac{\frac{X - X_{t-3}}{X_{t-3}} \times .80 \times IP_{t-3}}{t}$$

WHERE:

IPM = The indicated price movement for the next quarter.

X<sub>t</sub> = The value of the composite index for the most recent month.

X<sub>t-3</sub> = The value of the composite index three months prior to the most recent month value.

IP<sub>t-3</sub> = The indicated price computed three months earlier with respect to the current price i.e., the price at the time of calculation.

t = Time in months.

(8) The indicated price movement shall be adjusted in accordance with the procedures outlined in this Subsection and in the order specified:

(A) Carryovers. The indicated price movement for the next quarter shall be adjusted by adding or subtracting the carryover amount which results from the following computations in the previous quarter or quarters:

(i) any amount of any indicated price change which was less than fifteen cents (\$0.15) per hundredweight;

(ii) Any amount of any indicated price change which was not implemented as a result of the supply movers or price alignment snubbers.

(B) Supply Movers

(i) If the Glass II utilization for the month of September is twelve percent or more, twenty cents (\$0.20) per hundredweight shall be deducted from any indicated upward price movement, including any carryovers, computed for the January quarter. If the resulting upward movement after the twenty cents (\$0.20) per hundredweight adjustment is less than the fifteen cents (\$0.15) per hundredweight permitted under (D) of this Subsection, this amount shall be carried over and used in the computations for the next quarter. If an indicated upward price movement is less than twenty cents (\$0.20) per hundredweight, the deduction from the indicated price, including carryovers, shall be the actual amount indicated.

(ii) If the Glass II utilization for the month of September is four percent or less, twenty cents (\$0.20) per hundredweight shall be added to the indicated price movement, including any carryovers, computed for the January quarter. If the resulting movement is less than the fifteen cents (\$0.15) per hundredweight permitted under this Subsection, this amount shall be carried over and used in the computations for the next quarter. If no price movement is indicated, twenty cents (\$0.20) per hundredweight shall be added

to the price in effect for the previous quarter.

(C) Price Alignment Snubbers

(i) The surrounding state average to be used in the determinations outlined in (ii) and (iii) of this Subsection shall be the simple average of the latest prices announced by the commission to be paid producers for Glass I packaged sales in the states of South Carolina, Virginia and the Tennessee Valley Market Area. The price for Virginia shall be the simple average of the market area prices.

(ii) When the computations for a quarter indicate an upward price movement, such movement shall be suspended when the surrounding state average plus three percent is below the North Carolina price computed for the next quarter. When this Glass I price is below the surrounding state average plus three percent, then an upward price movement shall be permitted to, but not to exceed, the limit of the surrounding state average plus three percent, provided such a movement is fifteen cents (\$0.15) per hundredweight or more. The amount of any price increase snubbed by this provision shall be carried over and included in the computations for the following quarter.

(iii) When the computations for a quarter indicate a downward price movement, such movement shall be suspended when the surrounding state average minus three percent is above the North Carolina price computed for the next quarter. When this Glass I price is above the surrounding state average minus three percent, then a downward price movement shall be permitted to, but not to exceed, the limit of the surrounding state average minus three percent, provided such a movement is fifteen cents (\$0.15) per hundredweight or more. The amount of any price decrease snubbed by this provision shall be carried over and included in the computations for the following quarter.

(D) Price changes resulting from the application of the provisions of (A), (B) and (C) of this Subsection shall

be implemented provided such change is an amount of at least fifteen cents (\$0.15) per hundredweight with any amounts of less than fifteen cents (\$0.15) per hundredweight being carried over to the next quarterly computation.

(9) The Milk Commission reserves the right to suspend any price movement indicated by the formula whenever the commission deems it advisable.

(a) Class I price for North Carolina Sales. Effective May 3, 1936, the minimum price to be paid North Carolina Producers and/or associations of producers for all milk which is processed in North Carolina and sold or disposed of for consumption or use as processed fluid milk products in North Carolina and classified as Class I, shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, adjusted to a 3.5% butterfat basis as reported by the U. S. Department of Agriculture for the second preceding month plus four dollars (\$4.00) per hundredweight. The price generated under this procedure shall be adjusted according to the procedures outlined in Subparagraphs (a)(1) and (a)(2) of this Rule and the resulting price shall be announced in accordance with the procedure outlined in Subparagraph (a)(3) of this Rule.

(1) The price computed in (a) of this Rule shall be adjusted downward when the prevailing price for raw milk offered for sale or quoted to processors or distributors located outside North Carolina for sales to be made into North Carolina, as defined in this Subparagraph, is below the price computed in (a) of this Rule.

The prevailing price shall be defined as the most frequently utilized, most common, or predominant price offered or quoted by producers or associations of producers to processors or distributors located outside North Carolina for Class I fluid milk which is to be sold or disposed of for consumption or use as processed fluid milk products in North Carolina.

The Class I fluid milk price offered or quoted by any

cooperative or federation of cooperatives for at least 51% of the volume of Class I fluid milk sales shipped into North Carolina by processors or distributors located outside North Carolina shall be considered to be the prevailing price.

(2) Should the commission determine that processors located outside North Carolina will be paying various Class I prices for milk for sale into North Carolina and that a prevailing price, as defined in (a)(1) of this Rule cannot be determined, the commission may adjust the price computed under the provisions of (a) of this Rule downward to a Class I price which it considers fairly representative of the various prices to be paid to producers or associations of producers by processors or distributors located outside North Carolina for Class I sales made into North Carolina.

(3) The Class I price determined for any month shall be announced on or about the fifth and before the tenth of the month preceding such month and the price so announced shall be the price in effect for such month.

(4) The Milk Commission reserves the right to suspend, in accordance with the procedures applicable for filing temporary rules as provided in the Administrative Procedures Act and rules, any price movement indicated by the procedures outlined in this Rule when the commission deems it advisable.

(d) Class IB Price. The minimum price to be paid producers for the product pounds classified as Class IB in the designated marketing areas shall be as follows:

Milk Marketing Areas I, II, III, IV, V, VI, VII, VIII, IX, and X - the Class I price generated by the formula procedure as outlined in (a) of this Rule and announced by the Commission for milk containing three and one-half percent butterfat.

(i) Minimum Price for Milk Sold in Established Marketing Areas. Each distributor located in an uncontrolled area in North Carolina, who distributes milk in other established marketing areas in North Carolina, shall pay producers not less than the minimum producer price

established for that part of his total sales that are sold in other established marketing areas in North Carolina.

#### SAVINGS AND LOAN DIVISION

Notice is hereby given in accordance with G.S. 150B-12 that the Savings and Loan Division intends to adopt and amend regulations cited as 4 NCAC 16A.0004, 16C.0501 - .0503. The purpose of the proposed regulations is to provide procedure for payment of supervisory fees. Provides procedure and fees for interstate reciprocal acquisition of savings and loan associations.

The proposed effective date of this action is September 1, 1986.

Statutory Authority: G.S. 54B-48.6 - 55, - 57.

The public hearing will be conducted at 10:00 a.m. on June 16, 1986 in Room 2063 - Dobbs Building.

Comment Procedures: Written comments may be sent to Savings and Loan Division, P.O. Box M-27945, Raleigh, N.C. 27611. Requests for opportunity to present oral testimony and summary of testimony must be received at this address by July 10, 1986.

#### SUBCHAPTER 16A - GENERAL PROVISIONS

##### .0004 SUPERVISORY FEE

The annual supervisory fee paid by an for associations and holding companies pursuant to ~~G.S. 54B-57~~ shall be collected for a ~~semi-annual~~ period in the month ~~s~~ of July and January. This fee shall be non-refundable unless an application to convert to a federal charter or an application to merge has been filed with the Savings and Loan Division prior to the beginning of the ~~semi-annual~~ period. July. A refund of the fee shall be made on a pro-rata basis for the period remaining in the year ~~semi-annual~~ period after the effective date of the conversion to federal charter or the effective date of the merger under state law.

#### SUBCHAPTER 16C - APPLICATIONS

#### SECTION .0500 - INTERSTATE RECIPROCAL ACQUISITIONS

##### .0501 FORM

Application for approval to acquire North Carolina association is accomplished through the execution of Form AQ. The form can be obtained from and must be filed with the Savings and Loan Division, P.O. Box M-27945, Raleigh, North Carolina 27611.

##### .0502 ACQUISITION RESTRICTIONS

(a) A southern region savings and loan association or holding company which has a pending acquisition application may not file an additional acquisition application until the pending application has been approved by the administrator.

(b) An acquisition application which has been denied by the administrator shall not be processed upon refiling unless a period of six months has elapsed since the denial.

##### .0503 FEES

(a) The acquisition application fee is the same as for a savings and loan holding company application.

(b) The administration fee for an association acquired by a southern region savings and loan association or holding company shall be the same as the supervisory fee for a North Carolina association of similar asset size.

(c) The southern region savings and loan association or holding company that has acquired an association shall pay the same supervisory fee as a North Carolina holding company.

#### TITLE 7 - CULTURAL RESOURCES

##### DIV. OF ARCHIVES AND HISTORY

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Cultural Resources, Division of Archives and History intends to amend regulations cited as 7 NCAC 40 .0101, .0104, .0304, .0305, .0306; 4Q .0105; 4R .1102, .1301. The purpose of the proposed regulations is to amend operating procedures of Division of Archives and History.

The proposed effective date of this action is January 1, 1987.

Statutory Authority: G.S. 121, 143B-62.

The public hearing will be conducted at 10:00 a.m. on June 16th at Room 305 of the Archives and History-State Library Building located on 109 East Jones Street, Raleigh.

Comment Procedures: Written comments must be submitted by June 13, 1986 to Division of Archives and History, Room 305, 109 E. Jones Street, Raleigh, attn: William S. Price, Jr.

#### SUBCHAPTER 40 - MUSEUM OF HISTORY

##### SECTION .0100 - ADMINISTRATION

###### .0101 STATEMENT OF PURPOSE

The purpose of the Museum of History Section is to collect, preserve, and utilize historically significant artifacts and to develop interpretive museum programs for the promotion and teaching of North Carolina history interpret the culture and the social, economic, and political history of North Carolina from prehistory to the present, and to collect, preserve, and utilize artifacts and other materials significant to the history of the state.

###### .0104 USE OF THE ARCHIVES AND HISTORY/STATE LIBRARY AUDITORIUM

###### (a) Auditorium.

(6) Agencies planning to use the auditorium's audio-visual equipment must contact the office of the Chief, Museum of History Section, not less than 3 days in advance of the meeting to make necessary arrangements, wishing to use the auditorium's audiovisual equipment must obtain prior approval from the administrator of the Museum of History and must meet with museum staff two weeks in advance to confirm arrangements.

##### SECTION .0300 - COLLECTIONS

###### .0304 LOANS

(1) The transportation and utilization of borrowed

artifacts must comply with guidelines established by the Curator of Collections for the Museum of History outlined in the Museum Collections Branch Policies and Procedures Manual.

###### .0305 DEACCESSIONS

The deaccession of artifacts must be approved by the deaccession committee of the Division of Archives and History and by the North Carolina Historical Commission. The deaccession committee shall consist of:

(1) Director, Division of Archives and History, Chairman;

(2) Chief, Museum of History Section;

(3) Chief, Historic Sites Section, and

(4) Curator of Collections Branch, Museum of History Section.

###### .0306 RESEARCH AND STORAGE AREAS

The research area is open to the public for artifact research, identification, and study, Tuesday through Saturday Friday from 2:00 p.m. to 5:00 p.m. Storage facilities, preservation laboratories, and artifact work areas are closed to anyone other than members of the Collections Branch unless prior arrangement has been made with the Curator of Collections or the Chief, Museum of History Section.

#### SUBCHAPTER 40 - STATE CAPITOL/ VISITOR SERVICES SECTION

##### SECTION .0100 - GENERAL

###### .0105 USE OF FACILITIES

(b) Ceremonial or educational or interpretive events and activities may be conducted on the second or third floors or the first floor public areas of the State Capitol and in the Capital Area Visitor Center, if they are related to the history of the capitol or to the history and functions of state government and provided that the activities will not endanger the buildings or their furnishings.

(b) Official state government activities and ceremonial or educational activities directly related to the history of the Capitol or to the history and functions of state government may be

conducted on the second or third floors or in the first floor corridors and rotunda of the State Capitol and in the Capital Area Visitor Center, provided that these activities will not endanger the buildings or their furnishings. All other activities are prohibited in the aforementioned areas of the State Capitol in order that it and its historic furnishings may be better preserved for posterity. Specifically prohibited, for the purpose of preserving the aforementioned areas in the State Capitol, are activities not having official state government sponsorship which are conducted by a social, service, fraternal, business, commercial, industrial, political, religious, or related organization--or by individuals.

#### SUBCHAPTER 4R - ARCHAEOLOGY AND HISTORIC PRESERVATION SECTION

##### SECTION .1100 - HIGHWAY HISTORICAL MARKER PROGRAM

###### .1102 ERECTION OF HIGHWAY MARKERS

(b) All proposals for new markers shall be submitted in writing to:

Research Supervisor  
Archaeology and Historic  
Preservation Section  
Division of Archives and  
History

109 East Jones Street  
Raleigh, North Carolina 27611

Proposals shall include supportive documentary evidence and a suggested site or location. The suggested site is not binding on the committee.

##### SECTION .1300 - STAGVILLE PRESERVATION CENTER

###### .1301 PURPOSE

Stagville Preservation Center, located seven miles north of Durham on the Old Oxford Highway, is operated by the Archaeology and Historic Preservation Section Division of Archives and History, as a center for educational programs. Educational programs, preservation related classes and guided tours are offered to the public. The site is open to the public Monday through Friday, 9:00 a.m. to 4:00 p.m.; admission is free.

#### TITLE 10 - HUMAN RESOURCES

#### Mental Health, Mental Retardation and Substance Abuse Services

Notice is hereby given in accordance with G.S. 150B-12 that the Director of the Division of Mental Health, Mental Retardation and Substance Abuse Services intends to adopt regulations cited as 10 NCAC 18A .0123 through .0136. The purpose of the proposed rules is to establish a review process to monitor area facilities for compliance with required quality assurance activities as well as other rules of the Commission for Mental Health, Mental Retardation and Substance Abuse Services and the Secretary of the Department of Human Resources as required by G.S. 122C-191(d).

The proposed effective date of this action is September 1, 1986.

Statutory Authority: G.S. 122C-191(d); 122C-192.

The public hearing will be conducted at 1:30 p.m. on June 16, 1986, Room 301, Administration Building, 116 West Jones Street, Raleigh, N. C.

Comment Procedures: Any interested person may present his/her views and comments by oral presentation at the hearing or by submitting a written statement. Persons wishing to make oral presentations should contact: Jackie Stalnaker, APA Coordinator, Division of Mental Health, Mental Retardation and Substance Abuse Services, 325 North Salisbury Street, Raleigh, North Carolina 27611, (919) 733-7971 by June 16, 1986. The hearing record will remain open for written comments for 30 days from May 19, 1986 through June 17, 1986. Written comments must be sent to the APA Coordinator at the address specified above by June 17, 1986 and must state the proposed rule or rules to which the comments are addressed.

#### SUBCHAPTER 18A - MONITORING PROCEDURES

##### SECTION .0100 - REVIEW PROCESS FOR PROGRAMS AND THEIR CONTRACT AGENCIES

###### .0123 PURPOSE

The purpose of Rules .0123 through .0136 in this Section is

to set forth division procedures for monitoring area programs and their contract agencies for compliance with rules of the commission and the secretary; to set forth criteria for determining compliance with the rules; to assign tasks in the review process; and to establish procedures for handling non-compliance findings.

#### .0124 SCOPE

Rules .0123 through .0136 in this Section apply to all area programs and their contract agencies.

#### .0125 DEFINITIONS

As used in this Section, the following terms have the meanings specified:

(1) "APSM 40-1" means the division publication entitled "Review Process for Area Programs and Their Contract Agencies" as effective August 1, 1986. The manual may be reviewed at area program offices, regional offices, or the Publications Office of the division. Copies may be obtained from the Publications Office of the division at a charge which covers printing and postage.

(2) "Biennial Review" means a self-survey by an area program and all of its area-operated and contract components which occurs at least every two years in accordance with the rules in this Section and instructions outlined in APSM 40-1 to determine continued compliance with applicable rules of the commission and the secretary.

(3) "Certification" means the designation given a component by the division to indicate the status of compliance with rules of the commission and the secretary. Certification shall include one of the following:

(a) "Temporary Certification" means the status given when a component is temporarily authorized to receive state and federal funds until an on-site certification review of new or currently uncertified components can be conducted to determine compliance status.

(b) "Provisional Certification" means the status given when a component is unable to comply with one or more applicable rules and the non-compliance does not present an immediate threat

to health, welfare or safety of the individuals served.

(c) "Full Certification" means the status given when a component fully complies with all applicable rules.

(4) "Component" means a service developed to meet a particular need which is provided either through operation by the area program or through its contract with a public or private agency. For the purpose of certification and decertification, area program management services are considered to be a component, and each component stands as a separate entity.

(5) "Decertification" means the loss of certification status following a review process in which it is determined that the component is not licensed in accordance with North Carolina statutes or certified in accordance with the rules in this Section and APSM 40-1. Decertification may result in the delay, reduction or denial of state and federal funds, revocation of license, or loss of Medicaid provider status.

(6) "Inventory of Services" means a composite list of services provided by an area program of area-operated and contract components as maintained by the Client Information Systems Branch of the division. The inventory includes, but is not limited to, name, address, type of service, disability and age group served, and contract or area-operated status.

(7) "On-site Certification Review" means a review process through which compliance with applicable rules in an area-operated component is evaluated at the specific site by the regional office staff; in a contract component, by the area program staff.

(8) "Program Review Branch" means the branch of the Quality Assurance Section of the division which is responsible for developing the process and coordinating the review of mental health, mental retardation and substance abuse services provided by area programs and their contract agencies.

(9) "Review Process" means a process to monitor components for compliance with the required quality assurance activities as well as other applicable rules of the commission and the secretary

in accordance with G.S. 122C-191(d) and the rules of this Section.

#### .0126 GENERAL PROVISIONS

(a) All area-operated and contract components, including all physical locations, of an area program shall be reviewed for compliance with the applicable rules of the commission and the secretary. The review shall be conducted in accordance with the rules in this Section. Following full certification, each component shall continue to be reviewed, at a minimum, once during every biennial review cycle.

(b) Each component shall have either temporary, provisional, or full certification in order to receive state and federal funds.

(c) A facility subject to licensure shall not serve clients until properly licensed in accordance with applicable statutes and rules.

(d) The rules used in any review for certification shall be the applicable rules as codified in 10 NCAC 18I through 18Q and other applicable rules of the commission and the secretary.

(1) A rule shall be judged as "met" when:

(A) the rule was clearly met; or

(B) the rule was not completely met, but the correction of the out-of-compliance issue can be easily and quickly accomplished and there is evidence of efforts to do so. Otherwise, a rule shall be judged "not met."

(2) A rule may be judged "not applicable" only when it allows options of non-applicability or a waiver has been requested or granted.

(e) On-site review and the written certification report for an area-operated component are the responsibility of the regional director with participation by the Raleigh office as needed. On-site review and the written certification report for a contract component are the responsibility of the area director with participation by the regional office as needed. Written certification reports shall be in the format specified in APSM 40-1.

(f) Reviews conducted for the purpose of continuing

certification shall be accomplished through a biennial self-survey as described in Rule .0130 of this Section.

(g) The regional director and division director shall be responsible for approval and issuance of certification for area-operated components.

(h) The area director and regional director shall be responsible for approval and issuance of certification for contract components.

(i) The regional director shall notify the area director in writing when an area-operated component's certification is denied or changed or when the component is decertified. The written notification shall give the reasons for such action(s) and the right to appeal the decision according to Rule .0135 of this Section. The area director shall provide the same notification to the contract provider or agency director when such action(s) involves a contract component.

(j) In addition to the review procedures prescribed in this Section, the division director may, at any time, authorize an on-site review of any component.

#### .0127 TEMPORARY CERTIFICATION

(a) The area program shall submit an application for temporary certification for each new or uncertified component or in situations requiring an on-site review as specified in Rule .0134 of this Section on the division's "Application for Temporary Certification" form which may be obtained from the regional office.

(b) The area program shall submit the application to the regional office for all new components at least 30 days prior to the receipt of any divisional funds, including start-up funds.

(c) An approved "Application for Temporary Certification" serves as the notice of temporary certification. Temporary Certification shall be granted upon a determination by the division that sufficient data has been provided by the applicant and there is reasonable assumption that the applicant will be able to fully perform all obligations pursuant to the temporary certification.

(d) A temporary certification shall not exceed six months.

(e) If the component appeals the denial of temporary certification, funds shall not be available to the component unless it agrees to meet the division requirements pending the outcome of the appeal.

(f) Prior to expiration of temporary certification, an on-site certification review shall be conducted, following which provisional certification in accordance with Rule .0128 of this Section or full certification in accordance with Rule .0129 of this Section may be granted or the component may be decertified in accordance with Rule .0132 of this Section.

(g) A component shall not receive two consecutive temporary certifications.

#### .0128 PROVISIONAL CERTIFICATION

(a) Provisional certification shall be granted at any time when:

(1) a component is found to be out-of-compliance with one or more applicable rules which do not present an immediate threat to the health, welfare or safety of the individuals served; or

(2) a component subject to licensure is provisionally licensed.

(b) Provisional certification shall not exceed six months.

(c) During the provisional certification period, the regional director shall provide consultation and technical assistance to the area-operated components, if indicated, to correct any areas of non-compliance; the area director, to contract components.

(d) During the provisional certification period, the area director shall submit a statement for review and approval by the regional director and division director describing the corrective action(s) taken by a component(s).

(e) When all out-of-compliance or provisional licensure issues are fully resolved and documented, a full certification shall be issued.

(f) If all out-of-compliance or licensure issues are not fully resolved and documented, a notice shall be sent to the

area director 30 days prior to expiration of the provisional certification that decertification procedures will be initiated by the regional office unless a request for waiver of a rule is pending or has been approved.

(g) A component shall not receive two consecutive provisional certifications unless a request for waiver of a rule(s) is pending.

#### .0129 FULL CERTIFICATION

(a) Full certification shall be granted only when a component is in compliance with all applicable rules. Full certification is not time-limited; however, compliance with rules is reviewed biennially and continued full certification is dependent upon maintenance of compliance with all applicable rules.

(b) Full certification of a new, uncertified, or temporarily certified component shall occur only after an on-site certification review which determines compliance with all applicable rules.

(c) Continued full certification of a component not specified in (b) of this Rule shall occur only when it is determined to be in compliance with all applicable rules by participation in the biennial review as described in Rule .0130 of this Section.

#### .0130 BIENNIAL REVIEW

(a) Each area program and its area-operated and contracted components which are certified as of the effective date of the rules in this Section may continue certification by participation in a biennial self-survey as described in this Rule.

(b) The regional director shall select and notify the area programs to be reviewed each year of the two-year self-survey cycle.

(c) The area director shall appoint a self-survey coordinator who must participate in a training session on the self-survey process.

(d) By the date specified by the regional director, the area director shall:

(1) ensure that self-survey check sheets have been completed by each component

with participation of component staff;

(2) ensure that the Inventory of Services is an accurate reflection of all services provided at the time of the self-survey;

(3) prepare a composite report for review and approval by the regional director consisting of the following:

(A) a list of all components which were in full compliance;

(B) a list of components having unresolved non-compliance issues including the identification of rules "not met" by each individual component;

(C) a list of components for which decertification is in process, if any, and reason for such action; and

(D) a statement in the format specified in APSM 40-1 and signed by the area director and the area board chairperson reflecting that the information provided is a true and accurate report of the compliance status of the area program and its components;

(4) transmit the following to the regional director:

(A) signed composite report; and

(B) a copy of all completed check sheets.

(e) Appropriate certifications shall be issued based upon review and approval of the items in (d) of this Rule.

#### .0131 ON-SITE VALIDATION PROCESS

(a) Four area programs, one per region, shall be randomly selected by the Program Review Branch each year from among the area programs reviewed that year for an on-site validation process. The selection of the area programs for on-site validation shall occur following the self-survey by all area programs within a region scheduled for self-survey that fiscal year. A stratified sample of all components of the selected area programs shall be reviewed.

(b) Notification by the division director to the area program selected shall occur four weeks prior to the scheduled on-site validation review.

(c) A validation team, coordinated by the Program

Review Branch and composed of Raleigh office staff and regional office staff from the adjoining region(s) in closest proximity to the area program to be reviewed, shall conduct an on-site review to validate responses of all sampled components.

(d) The on-site review shall be limited to a maximum of 5 working days.

(e) The division director shall forward a final validation report to the regional director, the area board chairperson, and the area director.

(f) The area director shall be responsible for development of any required corrective action statements for a component as a result of the final validation reports.

(g) Following the final validation report, a change(s) in certification status shall be made, if indicated, in accordance with Rules .0126, .0128, .0129 and .0132 of this Section.

#### .0132 DECERTIFICATION

(a) Decertification of a component shall be initiated:

(1) immediately upon confirmation that a component subject to licensure is not licensed;

(2) immediately upon notification by the licensing agency that the license for a component has been revoked;

(3) immediately when there is substantiated evidence of conditions which threaten the health, safety or welfare of individuals served;

(4) within 30 days prior to the expiration of the provisional certification if the required corrective action statement has not been submitted and implemented; or

(5) upon failure to participate in the biennial self-survey or the validation process.

(b) If, after review of evidence, the division director finds that a component meets one or more of the conditions specified in (a) of this Rule and that the appropriate procedures have been followed by the division, division funds may be withheld as outlined in 10 NCAC 14C .1013 until compliance is achieved as determined by the division director.

#### .0133 CHANGES IN STATUS

(a) A "Change In Status" form as specified in APSM 40-1 shall be submitted immediately for a component by the area director to the regional director when a change(s) occurs in information in the Inventory of Services excluding those situations requiring an on-site review as specified in Rule .0134(a) of this Section.

(b) Upon validation of the change(s), the regional director shall forward the form to the division.

#### .0134 SITUATIONS REQUIRING ON-SITE CERTIFICATION REVIEW

(a) In addition to required on-site reviews specified in .0127(f) of this Section, on-site reviews of a component shall be conducted to reassess compliance with applicable rules affected by the following changes:

(1) a component has changed providers; or

(2) a component has changed service(s) provided.

(b) In addition to the required on-site reviews specified in (a) of this Rule, on-site reviews may, at the discretion of the regional director, be conducted to reassess compliance with applicable rules when a component has changed location.

(c) A certificate shall not be transferred from one provider or location to another.

(d) A certificate is only valid for the service(s) specified on the certificate.

(e) The area program shall submit an application for temporary certification in accordance with Rule .0127 of this Section at least 30 days prior to anticipated change(s) described in (a) of this Rule to provide adequate time to conduct an on-site certification review.

(f) Based upon findings of the on-site review, a new certificate shall be issued in accordance with Rule .0128 of this Section for provisional certification or Rule .0129 of this Section for full certification. or decertification procedures shall be initiated in accordance with Rule .0132 of this Section.

#### .0135 APPEALS AND WAIVERS

(a) Area boards may appeal the division's actions regarding certification and the withholding of division funds according to the procedures specified in accounting rule 10 NCAC 14C .1013 and the rules for contested cases as codified in 10 NCAC 14B, Section .0300.

(b) Area board chairpersons may request a waiver of an individual rule or rules by submitting a written request to the division director. If the commission, secretary, or division director grants a waiver of a rule, the program shall be exempt from review of the rule for which the waiver was granted.

#### .0136 CONFIDENTIALITY OF REVIEW DATA

(a) All persons who participate in on-site reviews shall assure confidentiality in accordance with G.S. 122C-56(c), G.S. 122C-192 and 10 NCAC 18D .0124.

(b) Written review findings are a matter of public record and, as such, shall be available for public inspection after receipt by the area director and the area board chairperson.

#### DIVISION OF YOUTH SERVICES

Notice is hereby given in accordance with G.S. 150B-12 that the Division of Youth Services intends to amend regulation cited as 10 NCAC 44D .0108. The purpose of the proposed regulation is to address disbursements, reversions, and final accounting requirements for county CBA programs regarding Community Based Alternatives funds from the state. The proposed amendment changes the schedule for disbursement of state CBA funds to counties from quarterly to monthly.

The proposed effective date of this action is September 1, 1986.

Statutory Authority:  
G.S. 7A-289.14; 143B-10.

The public hearing will be conducted at 2:00 p.m. on June 23, 1986 at Division of Youth Services, Conference Room, Dobbin Building, 705 Palmer Drive, Raleigh, N.C. 27603, Phone: 753-3011.

Comment Procedures: Written data, opinions, and arguments concerning this amendment must be submitted by June 16, 1986 to: Director, Division of Youth Services, 705 Palmer Drive, Raleigh, N.C. 27603. Oral comments (for no more than 10 minutes) may be presented at the hearing.

SUBCHAPTER 44D - COMMUNITY  
BASED FUND

SECTION .0100 - COMMUNITY  
BASED FUND

.0108 DISBURSEMENT:  
REVERSIONS: FINAL  
ACCOUNTING

(a) Funds approved for Community-Based programs shall be disbursed quarterly.  
monthly.

A waiver of this Rule may be granted by the Deputy Director for Community-Based Alternatives Section of the Division of Youth Services in light of the special needs of a particular program. Requests for waivers shall accompany each requesting county's Program Agreement form.

(b) A statement of projected unexpended funds shall be filed with the regional field consultant at the end of the third quarter ninth month  
of the fiscal each

year. This statement shall be prepared jointly by the program director and the county finance officer.

(1) Projected unexpended fourth quarter  
funds of the remaining three  
months of the fiscal year

may be redistributed to other programs within the county based on documented need within the county.

(2) Projected unexpended fourth quarter

funds of the remaining three  
months of the fiscal year

not requested by the county may be reallocated to the Community-Based Alternative Discretionary Fund for use by other participating counties.

TITLE 13 - LABOR

BOILER AND PRESSURE  
VESSEL DIVISION

Notice is hereby given in accordance with G.S. 150B-12 that the Department of Labor, Boiler and Pressure Vessel Division intends to amend regulations cited as 13 NCAC

13 .0202(d); .0203(b); .0205(b); .0213. The purpose of the proposed regulations is to increase the fees which the Boiler and Pressure Vessel Division is authorized to charge for its services.

The proposed effective date of this action is September 1, 1986.

Statutory Authority: G.S. 95-69.11 and 95-69.14.

The public hearing will be 2 p.m., Friday, June 20, 1986, Room 614, Cooper Memorial Building, 225 North McDowell St., Raleigh, NC.

Comment Procedures: People wanting to present oral testimony at the hearing, or who want to have written testimony read at the hearing, should provide a written summary of the proposed testimony to the department by June 13, 1986. Oral presentations will be limited to 15 minutes each. Written statements not presented at the hearing will be accepted by the department until June 30, 1986. All correspondence should be directed to: B.L. Whitley, N. C. Department of Labor, Boiler and Pressure Vessel Division, 214 W. Jones St., Raleigh, N. C. 27603. Interpreters for the hearing impaired will be made available if requested 24 hours in advance.

SECTION .0200 - ADMINISTRATION

.0202 CERTIFICATE OF  
COMPETENCY AND  
EXAMINATION

(d) The Board of Boiler and Pressure Vessel Rules' examination is prepared and graded by the national board  
National Board and:

(1) covers the construction, installation, operation, maintenance and repair of boilers and pressure vessels and their appurtenances;

(2) is given on the first Wednesday and one-half day Thursday in March, June, September, and December at a site selected by the director; and

(3) is administered upon payment of a fee of twenty  
thirty-five dollars ~~(\$20.00)~~  
(\$35.00) which is also required when the examination is retaken by an unsuccessful applicant.

.0203 NORTH CAROLINA  
COMMISSION CARD

(b) Requests for a North Carolina commission card are processed upon proof of a certificate of competency issued by the national board National Board and payment of

~~(1)~~ a five dollar (\$5.00) fee. if the request is made between January 1 and June 30; or  
~~(2)~~ a two dollar and fifty cents (\$2.50) if the request is made between July and December 31.

.0205 OWNER-USER INSPECTION  
AGENCY

(b) The company shall, in its application, designate an experienced technician or engineer within its employ as its inspector-supervisor, who, upon approval of the application, shall:

(1) ascertain that the company's inspectors, pursuant to Rules .0202 and .0203 are issued certificates of competency and owner-user commission cards;

(2) supervise inspections of boilers and pressure vessels and see that an inspection report, signed by the owner-user inspector, is filed at the equipment site;

(3) promptly notify the director of any unsafe boiler or pressure vessel;

(4) maintain a master file of inspection records:

(A) identifying each boiler and pressure vessel by serial number and abbreviated description;

(B) showing the date of the last and next scheduled inspection; and

(C) made available for examination by the director or his representative during business hours; and

(5) file, on a date mutually agreed upon with the director, an annual statement signed by the supervising inspector, showing the number of pressure vessels and certifying that each inspection was performed pursuant to these Rules, accompanied by the appropriate fee a filing fee of ten dollars (\$10.00) per vessel.

~~(A)~~ for statements covering not more than 25 boilers and pressure vessels - - seven dollars (~~\$7.00~~) per vessel;

~~(B)~~ for statements covering more than 25 but less than 101 boilers and pressure vessels -

- one hundred and fifty dollars (~~\$150.00~~);  
~~(C)~~ for statements covering more than 100 but less than 501 boilers and pressure vessels - - four hundred dollars (~~\$400.00~~); and  
~~(D)~~ for statements covering more than 500 boilers and pressure vessels - - eight hundred dollars (~~\$800.00~~).

.0213 CERTIFICATE AND  
INSPECTION FEES

(a) A seven fourteen dollar (~~\$7.00~~) (\$14.00) certificate fee for each boiler or pressure vessel inspected by a special inspector and found to be in compliance with these Rules shall be paid to the director.

(b) An inspection and certificate fee shall be paid to the director for each boiler or pressure vessel inspected by the state. Except where specifically noted in (1) of this Rule, a general inspection conducted on a power boiler shall carry the internal inspection fee.

(1) Power boilers:

(A) miniature boilers, which do not exceed 16 inches inside diameter of shell, 100 pounds per square inch maximum allowable working pressure: general inspection..

~~\$10.00;~~

\$15.00;

(B)

fire tube

firetube

boilers

with handholes only:

internal inspection..

~~\$15.00;~~

\$25.00;

external inspection while under pressure..

~~\$10.00;~~

\$15.00;

(C)

fire tube

firetube

boilers with manholes:

internal inspection..

~~\$25.00;~~

\$40.00;

external inspection

while under pressure..

~~\$10.00;~~

\$15.00;

(D)

water tube

watertube

boilers (coil type):

general inspection..\$15.00;

(E)

water tube

watertube

boilers  
with not more than  
500 square feet of  
heating surface:  
internal inspection..  
~~\$20.00;~~  
\$40.00;  
external inspection while  
under pressure..  
~~\$10.00;~~  
\$15.00;  
(F)  
water tube  
watertube  
boilers  
with more than 500  
but not more than  
3,000 square feet of  
heating surface:  
internal inspection..  
~~\$30.00;~~  
\$60.00;  
external inspection while  
under pressure..  
~~\$10.00;~~  
\$15.00;  
(G)  
water tube  
watertube  
boilers with more  
than 3,000  
square feet of heating  
surface: internal inspection..  
~~\$30.00;~~  
\$80.00;  
external inspection while  
under pressure..  
~~\$10.00;~~  
\$20.00;  
(2) Heating boilers and  
pressure vessels:  
(A) low pressure steam  
and hot water boilers,  
equipped only with  
handholes and washout  
plugs..  
~~\$12.00;~~  
\$20.00;  
(B) low pressure steam  
and hot water boilers,  
equipped with manhole..  
~~\$29.00;~~  
\$30.00;  
(C) fired hot water  
supply boilers and  
fired hot water  
heaters equipped with  
a manhole..  
~~\$15.00;~~  
\$25.00;  
(D) fired hot water  
supply boilers and  
fired hot water heaters  
without a manhole..  
~~\$10.00;~~  
\$15.00;  
(E) each pressure vessel  
subject to inspection  
equipped with a manhole  
or removable heads..  
~~\$15.00;~~  
\$25.00;  
(F) each pressure vessel  
subject to inspection

without a manhole..

~~\$10.00;~~

\$15.00;

(c) Special Inspection -  
twenty-five forty dollars  
~~(\$25.00)~~ (\$40.00)  
per hour plus expenses  
including travel, hotel and  
meals. The fee for special  
inspections performed outside  
of normal working hours is  
computed at the shop rate.

(d) Shop Inspection -  
eight-five dollars ~~(\$85.00)~~  
one hundred thirty-five  
dollars (\$135.00) per  
one-half day (four hours) or  
any part of one-half day or  
one hundred and fifty dollars  
~~(\$150.00)~~ two-hundred and  
fifty dollars (\$250.00) for  
one day (four to eight hours)  
or one thousand one hundred  
and fifty dollars (\$1,150)  
per week (36 to 40 hours),  
plus, in either case, all  
expenses including travel,  
hotel, and meals. This fee  
does not include the regular  
fee for inspection when the  
boiler or pressure vessel is  
installed.

## TITLE 15 - NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

### ENVIRONMENTAL MANAGEMENT COMMISSION

Notice is hereby given in  
accordance with G.S. 150B-12  
that the Environmental  
Management Commission intends  
to amend regulations entitled  
15 NCAC 2D .0501 and .0524.  
The purpose of the proposed  
amendments is to update test  
methods and to add another  
new source performance  
standard.

The proposed effective date  
of this action is November 1,  
1986.

Statutory Authority: G.S.  
143-215.3(a)(1); 143-215.68;  
143-215.107(a)(5).

The public hearing will be  
conducted at 2:30 p.m., June  
25, 1986 in the Ground Floor  
Hearing Room, Archdale  
Building, 512 North Salisbury  
Street, Raleigh, North  
Carolina.

Comment Procedures: Persons  
desiring to comment on the  
proposals are requested to  
give written notice thereof  
on or before the hearing  
date. Any person desiring to  
present lengthy comments is

requested to submit a written statement for inclusion in the record of proceedings at the public hearing. The record of proceedings will remain open for 30 days following the hearing to receive additional written statements; to be included, the statement must be received by the Division of Environmental Management within 30 days following the hearing. Additional information concerning the hearing or the proposals may be obtained by contacting:

Mr. Thomas C. Allen  
Division of Environmental  
Management  
P. O. Box 27687  
Raleigh, N.C. 27611-7687  
(919) 733-7015

#### SUBCHAPTER 2D - AIR POLLUTION CONTROL REQUIREMENTS

#### SECTION .0500 - EMISSION CONTROL STANDARDS

##### .0501 COMPLIANCE WITH EMISSION CONTROL STANDARDS

(c)  
(14) Emission rates for wood or fuel burning sources which are expressed in units of pounds per million BTU shall be determined by a method described in 40 CFR 60.45, the "Oxygen Based F Factor Procedure" described in 40 CFR Part 60, Appendix A, Method 19. Section 5. Other procedures described in Method 19 may be used subject to the approval of the Director, Division of Environmental Management.

This method, commonly referred to as the "F-factor method," requires the use of carbon dioxide or oxygen measurements. A higher order of accuracy is necessary in these measurements than for a molecular weight determinations.

To provide data of sufficient accuracy to use with the F-factor method, an integrated (bag) sample shall be taken for the duration of each test run. In the case of simultaneous testing of multiple ducts, there shall be a separate bag for each sampling train. The bag sample shall be analyzed with an Orsat analyzer in accordance with Method 3 of Appendix A of 40 CFR Part 60. (The number of analyses and the tolerance between analyses

are specified in Method 3.) The specifications indicated in Method 3 for the construction and operation of the bag sampling apparatus shall be followed.

(g) The version of the methods referred to in Paragraph (c) of this Regulation is that which appeared in the Code of Federal Regulations as of January 1, 1985 May 1, 1986.

#### .0524 NEW SOURCE PERFORMANCE STANDARDS

(a)  
(53) Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983 (40 CFR 60.1 to 60.39 and 60.270a to 60.279a)

(54) Onshore Natural Gas Processing: SO<sub>2</sub> Emissions (40 CFR 60.1 to 60.39 and 60.640 to 60.649).

(e) The version of the new source performance standard listed in Paragraph (a) of this Regulation is that which appeared in the Code of Federal Regulations as of September 1, 1985 May 1, 1986.

Notice is hereby given in accordance with G.S. 150B-12 that the Environmental Management Commission intends to amend regulations cited as 15 NCAC 2D .1002, .1004, and .1005. Two new sections of the narrative portion of the North Carolina State Implementation Plan for Air Quality on reducing carbon monoxide emissions in Wake and Durham Counties are also being proposed. The purpose of the proposed amendments is to reduce carbon monoxide emissions from automobiles in Wake County.

The proposed effective date of this action is November 1, 1986.

Statutory Authority: G.S.  
143-215.3(a)(1);  
143-215.107(a)(3),(6),(7);  
20-128.2(a).

The public hearing will be conducted at 2:00 p.m. on June 25, 1986 in the Ground Floor Hearing Room, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Persons desiring to comment on the

proposals are requested to give written notice thereof on or before the hearing date. Any person desiring to present lengthy comments is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. The record of proceedings will remain open for 30 days following the hearing to receive additional written statements; to be included, the statement must be received by the Division of Environmental Management within 30 days following the hearing. Additional information concerning the hearing or the proposals may be obtained by contacting: Mr. Thomas C. Allen, Div. Environmental Management, P. O. Box 27687, Raleigh, N. C. 27611-7687, (919) 733-7015.

## SUBCHAPTER 2D - AIR POLLUTION CONTROL REQUIREMENTS

### SECTION .1000 - MOTOR VEHICLE EMISSION CONTROL STANDARD

#### .1002 APPLICABILITY

Except for motorcycles and motor vehicles which are older than 12 model years, excluding the current model year, all gasoline-powered motor vehicles which are registered required to be registered by the Division of Motor Vehicles and/or and which are based in Mecklenburg County and Wake County are subject to the regulations of this Section.

#### .1004 EMISSION STANDARDS

(a) The following standards specify the maximum carbon monoxide concentrations permitted to be exhausted from motor vehicles subject to these Regulations:

Vehicle Class  
Light-duty Vehicle  
Model Year  
~~1971~~  
1974  
1975-  
~~1979~~  
1977  
~~1979-1980~~  
1978  
1979  
1980  
1981 and later

Carbon Monoxide Standard  
At Idle (Percent)  
7.0  
6.5  
5.0

4.5  
~~3.0~~  
4.0  
2.5  
2.0  
~~1.5~~  
1.2

Vehicle Class  
Heavy-duty Vehicle  
Model Year  
~~1971-1973~~  
1974  
~~1974-1978~~  
1975-1978  
1979 and later

Carbon Monoxide Standard  
At Idle (Percent)  
7.5  
6.5  
~~5.5~~  
5.0  
5  
4.0

(b) Exceptions or variances to the standards of Paragraph (a) of this Regulation, other than those specified in Regulation .1002 of this Section, are permitted only in accordance with the provisions of Section VI of the Safety/Emission Inspection Regulations for Mecklenburg County the Emissions Test Procedures Section of the "Safety, Emissions, Windshield Procedures Manual" as set forth by the North Carolina Division of Motor Vehicles.

#### .1005 MEASUREMENT AND ENFORCEMENT

The methods for measuring the carbon monoxide exhaust emissions are specified in the Safety/Emission Inspection Regulations for Mecklenburg County "Safety, Emissions, Windshield Procedures Manual" as set forth by the North Carolina Division of Motor Vehicles. The methods for enforcing the standards of this Section are contained in the Safety/Emission Inspection Regulations for Mecklenburg County and the Safety Inspection Regulations "Safety, Emissions, Windshield Procedures Manual" as set forth by the North Carolina Division of Motor Vehicles.

### SOIL AND WATER CONSERVATION COMMISSION

Notice is hereby given in accordance with G.S. 150B-12 that the Soil and Water Conservation Commission intends to adopt regulation cited as 15 NCAC 6A .0009.

The purpose of the proposed regulation is to define conditions for the removal of a district supervisor.

The proposed effective date of this action is September 1, 1986.

Statutory Authority: G.S. 143B-294; 139-7.

The public hearing will be conducted at 10:00 a.m. on June 16, 1986 in the Fifth Floor Conference Room, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Persons desiring to comment on the proposal are requested to give written notice thereof on or before the hearing date. Any person desiring to present lengthy comments is requested to submit a written statement for inclusion in the record of proceedings at the public hearing. The record of proceedings will remain open for 30 days following the hearing to receive additional written statements. Additional information concerning the hearing or the proposal may be obtained by contacting: Mr. Douglas Lewis, Div. of Soil and Water Conservation, Post Office Box 27687, Raleigh, N. C. 27611-7687, (919) 733-2302.

#### SUBCHAPTER 6A - ORGANIZATION AND OPERATION

##### .0009 SUPERVISOR VACANCIES

Soil and Water Conservation District supervisors may be removed from office by the Commission upon notice and hearing for neglect of duty, incompetence or malfeasance in office, but for no other reason. Evidence of neglect of duty shall include, but is not limited to, the ceasing to discharge the duties of the office over a period of three consecutive months except when prevented by sickness. District boards shall advise the commission in writing of the failure of any supervisor to so discharge his duties over the three-month period.

#### TITLE 18 - SECRETARY OF STATE NOTARY PUBLIC

Notice is hereby given in accordance with G.S. 150B-12

that the Secretary of State intends to adopt, amend, and repeal regulations cited as 18 NCAC 7

.0101, .0103, .0201, .0203, .0206, and .0300. The purpose of the proposed regulations is to correct inaccurate references in existing regulations, to delete repetition of statutory material and to establish policies for the notary public education program.

The proposed effective date of this action is September 1, 1986.

Statutory Authority: Chapter 10 of the General Statutes.

The public hearing will be conducted at 2.00 p.m. on June 16, 1986 at Room 302, Legislative Office Building, 300 N. Salisbury Street, Raleigh, North Carolina.

Comment Procedures: Comments should be submitted by June 12, 1986 to Ludelle Hatley, Notaries Public Deputy, Department of the Secretary of State, 300 N. Salisbury Street, Raleigh, N.C. 27611.

#### SECTION .0100 - GENERAL PROVISIONS

##### .0101 LOCATION AND HOURS

The notary public division of the Department of the Secretary of State is located in Room 401, Administration Building, 116 West Jones Street, Raleigh, North Carolina 27603 302, Legislative Office Building, 300 North Salisbury Street, Raleigh, North Carolina 27611.

Office hours for the public are 8:00 a.m. to 4:00 p.m. Monday through Friday with the exceptions of state holidays.

##### .0103

#### NOTARY PUBLIC OFFICER NOTARIES PUBLIC DEPUTY

The chief officer of the division is the Notary Public Officer, Notaries Public Deputy, an employee of the Secretary of State, who has general supervisory control over the division.

#### SECTION .0200 - APPOINTMENT OF NOTARIES PUBLIC

##### .0201 REQUIREMENTS FOR INITIAL APPOINTMENT

The appointment of notaries public is within the absolute discretion of the Secretary of State. Equal consideration will be given to all persons making application on the form "Application for Initial Appointment as Notary Public" and meeting the following requirements: eligibility requirements set out in G. S. 10-1.1.

(1) Satisfactory completion of the course of study approved by the Secretary of State, developed by that officer, the Department of Community Colleges and the Institute of Government. Each applicant for an initial commission shall apply directly to the community college or technical college of choice to enroll in class. Instructors shall file evaluation reports on each class attendant with the Notaries Public Division and such reports shall become a part of applicant's file. Practicing attorneys at law are exempt from the foregoing requirement.

(2) Registered voter. The applicant shall be a registered voter in North Carolina before a notary public commission will be issued.

(3) Recommendation. Application shall be accompanied by the recommendation as to character and fitness from a publicly elected official from the county, district or municipality in which the applicant lives.

#### .0203 DISQUALIFICATION (REPEAL)

#### .0206 REQUIREMENTS FOR REAPPOINTMENT

(a) For reappointment as a notary public, either a current "Application for Appointment Reappointment as Notary Public" or the form sent the notary at the time of issuance of last commission must be completed and submitted with the statutory fee.

#### SECTION .0300 - NOTARY PUBLIC EDUCATION PROGRAM

##### .0301 APPROVED COURSE OF STUDY

In order to be approved by the Secretary of State, a course of study for applicants for appointment as a notary public must be:

- (1) based on the Instructor's Guide developed by the Department of Community Colleges and the Department of the Secretary of State;
- (2) taught by an instructor certified by the Secretary of State.

##### .0302 INSTRUCTORS

(a) In order to be certified to teach a course of study for notaries public, an instructor must:

(1) Complete a six hour instructor's course taught by the Notaries Public Deputy or other person approved by the Secretary of State with a grade of not less than 80;

(2) have six months active experience as a notary public; provided that registers of deeds, their assistants and deputies, clerks of court, their assistants and deputies and practicing attorneys at law shall be except from this requirements;

(3) Purchase an approved notary public manual.

(b) Certification shall be effective for two years and may be renewed by taking a recertification course taught by the Notaries Public Deputy or other person approved by the Secretary of State.

##### .0303 APPROVED MANUAL

The manual approved by the Secretary of State for purchase by notaries public is the edition of the Notary Public Guidebook for North Carolina published by the Institute of Government, University of North Carolina at Chapel Hill which is current at the time of purchase.

#### TITLE 21 - LICENSING BOARDS

##### N.C. BOARD OF MEDICAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-12 that the Board of Medical Examiners intends to adopt regulation cited as 21 NCAC 32H .1004. The purpose of the proposed regulation is to set medical guidelines for operators of air ambulances.

The proposed effective date of this action is October 1, 1986.

Statutory Authority: G.S.  
143-514.

The public hearing will be conducted at 2:00 p.m. on June 18, 1986 at Division Facility Services, Room #201, 701 Barbour Drive, Raleigh, N. C.

**Comment Procedures:** Written comments will be received beginning June 1, 1986 and ending July 1, 1986. These comments should be sent to: Office of Emergency Medical Services, Division of Facility Services, 701 Barbour Drive, Raleigh, N. C. 27603. Oral comments will be received the day of the public hearing.

#### SUBCHAPTER 32H - MOBILE INTENSIVE CARE

#### SECTION .0100 - GENERAL INFORMATION

##### .1004 AIR AMBULANCE PROGRAM CRITERIA

(a) Air ambulance programs operating under the authority of 10 NCAC 3D

.0101(b)(4) (B) must submit a proposal for program approval to the Office of Emergency Medical Services at least 60 days prior to field implementation. The proposal must document that the program has:

- (1) a defined service area;
  - (2) a physician medical director responsible for:
    - (A) the establishment and updating of treatment and transfer protocols;
    - (B) medical supervision of the selection, training, and performance of medical crew members as defined in 10 NCAC 3D .0115;
    - (C) the medical review of patient care;
    - (D) medical management of the program.
- Pending formal

review, the medical director may temporarily suspend from the program any medical crew member whose actions or medical care are determined to be detrimental to patient care;

(3) adequate manpower trained, in accordance with 10 NCAC 3D .0115, to ensure that the program will be continuously available on a 24 hour-a-day basis;

(4) an audit and review panel which meets on a regular basis to:

- (A) review cases and determine the appropriateness of medical care rendered;
- (B) make recommendations to the medical director about the continuing education needed by medical crew members;
- (C) review/revise policies, procedures, and protocols for the program;

(5) patient transfer protocols that have been reviewed and approved by the office of Emergency Medical Services.

(b) Air ambulance programs based outside of North Carolina may be granted approval by the Office of Emergency Medical Services to operate in North Carolina under 10 NCAC 3D .0101 (b) (4) (B) by submitting a proposal for program approval. The proposal must document that the program meets all criteria specified in Section .1004(a) of this Subchapter.

(c) Air ambulance programs implemented prior to June 1, 1986 and which operate under the authority of 10 NCAC 3D .0101 (b) (4) (B) must document compliance with Section .1004 of this Subchapter by June 1, 1987.

NORTH CAROLINA ADMINISTRATIVE CODE

LIST OF RULES AFFECTED

EDITION X, NO. 2

EFFECTIVE: May 1, 1986

AGENCY	ACTION TAKEN	EFFECTIVE DATE
<u>AGRICULTURE:</u>		
2 NCAC 9K .0206	Amended	5/1/86
9K .0212	Amended	5/1/86
2 NCAC 38 .0201	Amended	5/1/86
38 .0203	Amended	5/1/86
38 .0301	Amended	5/1/86
38 .0401	Amended	5/1/86
2 NCAC 48C .0008(3)	(Temp. Amended)	3/21/86
<u>CULTURAL RESOURCES:</u>		
7 NCAC 2A .0101(a)	Amended	5/3/86
7 NCAC 4M .0102	Amended	5/3/86
<u>BOARD OF ELECTIONS:</u>		
8 NCAC 8 .0001-.0002	Adopted	3/24/86
8 .0003	Adopted	4/9/86
<u>HUMAN RESOURCES:</u>		
10 NCAC 8G .0607	Adopted	5/1/86
10 NCAC 10F .0029	Amended	5/1/86
10F .0032-.0034	Amended	5/1/86
10F .0039	Amended	5/1/86
<u>JUSTICE:</u>		
12 NCAC 9B .0226-.0227	Adopted	5/1/86
9B .0606	Amended	5/1/86
9D .0102	Amended	5/1/86
9D .0104-.0106	Amended	5/1/86
9D .0202	Amended	5/1/86
9D .0206	Amended	5/1/86
<u>LABOR:</u>		
13 NCAC 7C .0101(a)(99)	Amended	5/1/86
<u>NATURAL RESOURCES &amp; COMMUNITY DEVELOPMENT:</u>		
15 NCAC 2I .0106	Adopted	5/1/86
2I .0301	Amended	5/1/86
2J .0004-.0007	Amended	5/1/86

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